

FILED

MAY 19 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN MAGALLENES-GIL,

Defendant - Appellant.

No. 05-50428

D.C. No. CR-05-00055-GT

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, Jr., Senior Judge, Presiding

Submitted May 15, 2006^{**}

Before: B. FLETCHER, TROTT and CALLAHAN, Circuit Judges.

Juan Magallenes-Gil appeals from his guilty plea conviction to importation of cocaine, in violation of 21 U.S.C. §§ 952 and 960. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Magallenes-Gil contends that the district court's failure during his guilty plea colloquy to ascertain whether he had been subjected to threats or promises and to recite the precise elements of the offense merit vacating his guilty plea. A review of the record demonstrates that Magallenes-Gil has not shown a "reasonable probability that, but for the error, he would not have entered the plea." *See United States v. Dominguez-Benitez*, 542 U.S. 74, 83 (2004). Accordingly, we affirm.

AFFIRMED.